

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

REPORT AND RECOMMENDATION

This matter was filed on December 21, 2023. [Dkt. 1.] On April 23, 2024, the Court entered its Order Setting Pretrial Schedule and Discussing Discovery, which required Plaintiff Shane Tyree, among other things, to serve his initial disclosures by no later than May 23, 2024, and to serve an initial settlement demand by no later than June 6, 2024. [Dkt. 14.]

On May 8, 2024, the Court scheduled an in-person status conference to take place on May 28, 2024. [Dkt. 16.] Plaintiff Tyree failed to appear for the in-person status conference as ordered. [Dkt. 20.] The Court ordered Plaintiff Tyree to show cause why he should not be sanctioned for his failure to appear. [Dkt. 21.] Plaintiff Tyree subsequently explained the reason for his failure to appear and the order to show cause was discharged. [Dkts. 22 & 24.]

On June 27, 2024, the Court scheduled another in-person status conference to take place on July 23, 2024. [Dkt. 23.] Plaintiff Tyree again failed to appear. [Dkt. 27.] Also, during the conference, counsel for Defendants advised the Court that Plaintiff Tyree had not served his initial disclosures or made an initial settlement demand as required by the Court's Order Setting Pretrial Schedule and Discussing Discovery. [*Id.*]

On July 23, 2024, Plaintiff Tyree was ordered to appear in open court on August 14, 2024 to show cause why he should not be sanctioned for his failure to appear for the July 23, 2024 status conference, and for his other failures to comply with the Court's orders. [Dkt. 28.] The Court's order stated as follows: "Failure by Mr. Tyree to appear as ordered may result in sanctions, up to and including the dismissal of this case." *[Id.]* On August 14, 2024, Plaintiff Tyree again failed to appear.

Given Plaintiff's failure to comply with two orders to appear, as well as his failure to comply with the Court's Order Setting Pretrial Schedule and Discussing Discovery, the Undersigned believes that dismissal of this case pursuant to Federal Rule of Civil Procedure 41(b) is appropriate. Accordingly, the Undersigned **RECOMMENDS** that this case be dismissed, with prejudice.

Any objections to the Magistrate Judge's Report and Recommendation shall be filed with the Clerk in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), and failure to timely file objections within fourteen days after service shall constitute a waiver of subsequent review absent a showing of good cause for such failure.

Dated: 15 AUG 2024



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

Distribution:

Service will be made electronically
on all ECF-registered counsel of record via
email generated by the Court's ECF system.

Shane Tyree
2814 Delores Dr.
Indianapolis, IN 46222

David M. Slater
3841 Bluebell Lane
Apartment 5202
Whitestown, IN 46075